

1 there would not ever have been the ability or at least the
2 ability of an \$850,000 payment. I believe that the
3 settlement in effect, because they did not -- they affirmed
4 the integration portion but not the dismissal, had they
5 dismissed it then they wouldn't have been able to get as
6 settlement \$850,000.

7 Q But didn't that review board reject SBB's
8 application in its July 1988 decision?

9 A Are we --

10 Q We're not --

11 A If you want to refer me to the documents. I'm
12 sorry, I --

13 Q Document B, again it's the July 1988 review board
14 decision.

15 A Right.

16 Q And particularly, page B-19, paragraph 63. It's
17 an ordering clause which grants one application and denies a
18 number of others, including San Bernardino Broadcasting
19 Limited Partnership.

20 A I think that's different than dismissal of an
21 application.

22 Q Denial is different than dismissal; is that your
23 testimony?

24 A I believe that to be the case, yes.

25 Q What's the difference.

1 A The difference, I guess my understanding of that
2 is that if you are dismissed, that's your application isn't
3 under consideration at all. If you are denied, we
4 considered it in reference to others, and decided one and
5 turned down the others. I think there is a significance,
6 I'm sure you can -- again, I imagine that's a term of art
7 around here.

8 Q Please refer to Exhibit 46, Attachment C. Do you
9 have that in front of you?

10 A Not yet, I don't.

11 Okay, yes.

12 Q This is a review board memorandum opinion and
13 order released on October 31, 1990. And I refer you to
14 paragraph five which begins on page C-1 and ends on C-2.
15 But the relevant language that I want to focus your
16 attention on is on page C-1.

17 Isn't that the case, Mr. Parker, that the
18 application for San Bernardino Broadcasting Limited
19 partnership and other applications are all dismissed by this
20 particular order?

21 A Well, you know, I guess you can -- again, I think
22 commons sense dictates at this point there is a settlement
23 and everybody applied to have their applications dismissed,
24 and for one of them to be granted in return for the payment,
25 again in paragraph two, to -- I'm looking for the one that's

1 \$850,000. San Bernardino Broadcasting, \$850,000, and again
2 I think that goes to the point of what I am saying; that in
3 this case prior to -- in return for dismissing their
4 application the review board grants here \$850,000, and that
5 ends the matter.

6 Q Does the review board say anything in this
7 memorandum opinion and order, which is Attachment C to your
8 testimony, did the review board say anything about San
9 Bernardino Broadcasting's qualifications to be a licensee?

10 A Not to my knowledge, no.

11 Q Did the review board in its October 31, 1990
12 memorandum opinion and order say anything about Judge
13 Gonzalez's decision disqualifying SBB because of the --
14 strike that -- because of the real party in interest issue?

15 A I think what it says is rather than pursue this
16 matter, the parties have elected not to file exceptions to
17 the SID with the board; instead they proposed to settle this
18 proceedings and with San Dino paying each of them the
19 following figures. In this case, San Bernardino
20 Broadcasting was to receive \$850,000.

21 Q Does that language you just read say anything
22 about Judge Gonzales' disqualification of SBB?

23 A No, it does not.

24 Q In your testimony at paragraph five, the last
25 sentence reads, Although SBB could have asked for the

1 earlier review board decision to be vacated as part of the
2 settlement of the case, it did not do so."

3 Do you see that testimony?

4 A Where are you referring me now?

5 Q Paragraph five of your testimony, your written
6 testimony which is Exhibit 46.

7 A Yes.

8 Q It does say that SBB could have asked for the
9 earlier review board decision to be vacated as part of the
10 settlement of the case, it did not do so?

11 A That's correct.

12 Q What would have been the effect if SBB had asked
13 for the review board to vacate its earlier decision?

14 A We wouldn't be talking about it right now.

15 Q Why not?

16 A Because it undoubtedly would have taken care of it
17 in this decision or in the following decision, which I was
18 under the assumption they had done.

19 Q If they had done it, there would have been no
20 reason to seek a vacation; is that correct?

21 A A vacation? I'm sorry.

22 Q There would have been no reason to have the
23 decision vacated?

24 A I thought your question was -- I guess, I'm --
25 let's start over. What was your question?

1 Q The question is what were you seeking to have
2 vacated -- what would you have sought to be vacated in the
3 earlier review board decision?

4 A Now, you have to understand something. By the
5 time this happened, I was no longer a part of San Bernardino
6 Broadcasting. I had been fired by Ms. Van Osedale.

7 JUDGE SIPPEL: By the time this happened. What's
8 "this happened"?

9 THE WITNESS: I'm talking about the subsequent
10 review board decision and the final settlement. I was not a
11 party to any of those and was not involved in them, and
12 didn't take part.

13 JUDGE SIPPEL: So July '98, you were out, in a
14 manner of speaking? Or July '88, July 1988?

15 THE WITNESS: If you would just give me a minute,
16 I think they referenced when I got fired.

17 (Pause.)

18 JUDGE SIPPEL: Well, that's right. I don't need
19 to have --

20 THE WITNESS: Well, it was before July of '88, I
21 had been fired. Yes, Your Honor.

22 BY MR. COLE:

23 Q Mr. Parker, we're going to go now to the small
24 gray notebook now for awhile.

25 A Is this your gray notebook?

1 Q Yeah, my gray notebook.

2 A All right.

3 Q The attractive international emergency orange
4 sticker on it, which I would like to compliment my staff on
5 the record because they asked me to.

6 Turn please, Mr. Parker, to Adams Exhibit 50.

7 A Fifty?

8 Q Five-zero, right.

9 A Okay.

10 Q Which is the KWBB transfer application, San
11 Francisco transfer application, 315.

12 A Yes.

13 Q This was filed in March of 1989, according to the
14 cover letter.

15 A Yes.

16 Q Did you review this before it was filed with the
17 FCC?

18 It's not a trick question. You did not sign it.

19 I'm not --

20 A Yeah, okay.

21 I was involved in it. I don't know that I
22 reviewed it in its entirety.

23 Q Well, you will confirm, won't you, that it was
24 signed by Lynette Ellertson?

25 A Yes.

1 Q And she was identified as secretary to the
2 transferor, Exhibit 50, page 13.

3 A That is accurate.

4 Q Ms. Ellertson, again just for -- to get us
5 oriented to this, if you would turn to page 24 and 23 there
6 is that table that we looked at earlier on, Exhibit Roman
7 Numeral II?

8 A Okay, we've got a lot of page numbers here.
9 Which?

10 Q I'm sorry. I'm looking at the Adams exhibit page
11 numbers.

12 A Yeah.

13 Q The lower right-hand corner.

14 A Which one of yours? Four, you said?

15 Q Exhibit 50, page 23 and page 24.

16 A Oh, page 23. I'm sorry.

17 Q What I want to confirm is that Ms. Ellertson's
18 address, which is listed on page 23?

19 A Yes.

20 Q Is the same as your address which is listed on
21 page 24?

22 A That is correct.

23 Q Is that a residence address?

24 A Yes.

25 Q But you do not recall whether you reviewed this

1 application before it was filed; is that correct?

2 A That is correct.

3 Q Now, in Exhibit III to this application, and that
4 appears at Exhibit No. 50, page 26.

5 A Page 26?

6 Q Yes.

7 A Okay.

8 Q Actually page 26 through 28.

9 The Mount Baker decision is mentioned in the
10 paragraph concerning your other broadcast interests.

11 A That is correct.

12 Q But the Religious Broadcasting case is not
13 mentioned in that paragraph, is it?

14 A No, it is not.

15 Q Can you tell me why Religious Broadcasting was not
16 mentioned in this application?

17 A I believe it had not reached finality at that
18 point.

19 Q In your view, was it appropriate not to mention
20 cases that had not become final?

21 A Again, I'm not an attorney. I believe Mr. Wadlow,
22 who was involved in the San Bernardino case representing
23 another client, prepared the disclosure portion with regard
24 to my entry. And if he didn't feel that it should be there,
25 I relied upon him as I relied on my other counsels at

1 various points. And so if he didn't put it there, it was
2 because he didn't feel that was the case, and I took his
3 advice.

4 Q Okay, now, as far as the question of finality is
5 concerned that you mentioned earlier on, let me refer your
6 attention to the final sentence of the first partial
7 paragraph on page 27, which refers to the Mount Baker case.
8 And that sentence reads, "Mount Baker Broadcasting Company
9 has pending before the Commission an addition for
10 reconsideration of that decision."

11 Do you see that language?

12 A Yes.

13 Q Doesn't that suggest the Mount Baker Broadcasting
14 decision was itself not final at that point?

15 A Well, I -- again, we're talking apples and
16 oranges. One's a proceedings, the other was a different
17 kind of a decision. But again, you're asking me a question
18 of what was put down by my legal counsel, and I followed --
19 I followed Mr. Wadlow's advice, or I should say in this case
20 West Coast United followed his advice.

21 Q Now, go over to page 7 of this application, if you
22 could, please, sir; Exhibit 50, page 7.

23 A Exhibit 50, page 7? You page 7?

24 Q Page 7.

25 A I'm sorry. I was going in the wrong direction.

1 I'm sorry. Yes.

2 Q This is question four of the transferee's legal
3 qualifications, and the question asked whether an adverse
4 finding has been made as to any party to the application in
5 any proceeding brought under the provisions of any law
6 related to, among other things, fraud."

7 Do you see that, do you see that language up in 4-
8 A?

9 MR. HUTTON: Your Honor, I object on grounds of
10 relevance. This isn't relevant to the issue we are trying
11 in this case.

12 JUDGE SIPPEL: Well, we're talking about the --
13 there is different ways of looking at this, and certainly
14 the witness's knowledge and familiarity association with the
15 application is relevant to this case.

16 MR. HUTTON: That's true, but that's not what's
17 being asked.

18 JUDGE SIPPEL: Well, it's -- beyond that, I mean,
19 I don't see where the witness is being disadvantaged or is
20 being -- he seems to be able to handle these questions
21 alright. As, you know, many questions that Mr. -- within
22 reason, whatever questions Mr. Cole had with respect to this
23 application he's going to be permitted to those on cross-
24 examination.

25 Go ahead, Mr. Cole.

1 BY MR. COLE:

2 Q Let me restate my question. I think I had one
3 pending but I've forgotten what it was.

4 Question four that we are looking at on page 7 of
5 this application asks whether an adverse finding has been
6 made as to any party to the application in any proceeding
7 brought under the provisions of any law related to, among
8 other things, fraud.

9 Would you agree with that?

10 A Yes.

11 Q And this question is answered in the negative,
12 correct, in the application?

13 A Yes.

14 Q Isn't it true that the review board had just eight
15 months earlier found that you had engaged in attempted fraud
16 on the Commission?

17 A No.

18 Q The review board did not find that?

19 A No.

20 Q Return to your Attachment B of your testimony, in
21 particular refer your attention to page 7, paragraph 18.

22 A Page 7?

23 Q Page 7, B-7, paragraph 18. I'm particularly
24 interested in the final sentence of that paragraph which
25 concludes, "The ALJ justly rejected its," referring to

1 SBB's, "attempt at fraud."

2 Do you see that language there?

3 A Mm-hmm.

4 Q All right, now, is it your testimony that that
5 does not reflect a determination by the review board that
6 you had engaged in attempted fraud before the Commission?

7 A I never owned any stock in SBB. When they got
8 \$850,000, I never got a dime, and my name doesn't appear
9 there. And to the best of my knowledge, no one has ever put
10 up the thought that I have been found guilty of anything
11 other than for purposes of the level of my activity with
12 regard to SBB, I was found a real party in interest.

13 Q So your testimony is that the review board's
14 reference to "attempted fraud" on the part of SBB had
15 nothing to do with you?

16 A Not in terms of a finding of fraud, no. I don't
17 believe that to be the case.

18 Q And refer, if you could, please, Mr. Parker, to
19 paragraph 16 on the preceding page. That would be E-6.

20 A Which page now?

21 Q Page 6, E-6, paragraph 16.

22 A Yes.

23 Q Second sentence reads, "We need to repeat point by
24 point all of the findings of fact which the ALJ has set out
25 to support his conclusion that the progenitor and the real

1 party in interest of SBB is definitely not Van Osdale. She
2 being merely a fig leaf for the true kingpin of SBB, one
3 Micheal Parker."

4 Did I read that correctly?

5 A Yes, you read it correctly.

6 Q And that in your mind did not indicate the review
7 board was finding that you were involved in attempted fraud
8 on the Commission?

9 A No, I do not.

10 Q Now, go back to the Mount Baker decision that's
11 Attachment A to your testimony, please.

12 A Attachment A?

13 Q A.

14 A Yes.

15 Q Let me know when you are there.

16 A Yes.

17 Q Page 2 of that, paragraph eight, approximately
18 nine lines down into paragraph eight there is a sentence,
19 "In that regard, improper construction did not occur through
20 error or inadvertence. The facts clearly indicate an effort
21 to deceive the Commission."

22 See that language?

23 A Yes.

24 Q Did that suggest to you that the Commission was
25 finding that you were involved and attempted deceit on the

1 FCC?

2 A It said "in an effort to deceive the Commission,"
3 that's what the language says.

4 Q Going back to Adams Exhibit No. 50, page 7,
5 question number four on the transferee's legal qualification
6 section, in light of the Mount Baker decision how could you
7 answer that question in the negative?

8 A I believe in the Mount Baker case it outlines
9 exactly what the position with regard to the disclosure is
10 on page 2, your 50 page 27, and it indicates that in fact --
11 it outlines that and disclosures exactly what that
12 memorandum opinion order, refers it to the Commission, and I
13 don't believe that the two are inconsistent at all. And I
14 believe that the statement is accurate, and I'm sure you
15 will spend a lot of time disagreeing with that.

16 Q So the statement, if you included -- strike that.

17 The statement that was included in Exhibit III to
18 the application, which appears at page 26 and page 27 of
19 Exhibit No. 50 for Adams, in your view, place the Commission
20 on notice that a question of deceit by the applicant had
21 been addressed and resolved adversely to the applicant?

22 MR. HUTTON: Objection; mischaracterizes the
23 testimony.

24 JUDGE SIPPEL: It's argumentative too. I'll
25 sustain the objection.

1 BY MR. COLE:

2 Q Now, staying with the San Francisco application
3 for a moment, I refer you to --

4 A Where are we? I'm sorry.

5 Q We're at Adams 50.

6 A Adams 50.

7 Q The all gray notebook.

8 A Okay.

9 Q Page 9, that's Adams pagination 9.

10 A Mm-hmm.

11 Q Looking at question seven on the application, and
12 this question calls for disclosure of any application which
13 was dismissed or denied by the Commission and with which any
14 party to the current application had any interest in or
15 connection with.

16 Do you agree that that's what the information ask
17 for in this question?

18 A That is correct.

19 Q Now --

20 A I'm sorry. Can you state it again because I want
21 to make sure I'm accurate?

22 Q Question seven on the form calls for the
23 disclosure of any application which was dismissed or denied
24 by the Commission and with which any party to the current
25 application, that would be the San Francisco application,

1 had any interest in or collection with.

2 A Yes.

3 Q And you've answered -- strike that.

4 The application is answered in the affirmative,
5 with respect to 7(a) and 7(b); is that correct?

6 A Yes.

7 Q And 7(e) says, "If the answer to any of these
8 questions is yes, state in Exhibit No." or Roman Numeral III
9 certain information.

10 A That is correct.

11 Q And so if you go now to Roman Numeral III, which
12 is at Adams Exhibit 50, page 26 through 28, it's Roman
13 Numeral III, and that's the exhibit that's referred to
14 there, right?

15 A I'm sorry. Roman Numeral III?

16 Q Roman Numeral III. You're in Exhibit 50, Adams
17 Exhibit 50, and we're looking at --

18 A Exhibit III

19 Q -- Exhibit III there?

20 A Yes.

21 Q And we've already established this exhibit does
22 not contain any reference to Religious Broadcasting of San
23 Bernardino case.

24 My question to you now, Mr. Parker, is -- in light
25 of the language in question seven on the form that we just

1 looked at -- how could you fail to include any reference to
2 the Religious Broadcasting case in the San Francisco
3 application?

4 A I think I already answered that question.

5 Mr. Wadlow was involved in that case and in fact
6 represented another party. He represented West Coast. And
7 he didn't add it here.

8 Q Did it strike you as strange that this San
9 Francisco application did not include any reference at all
10 to Religious Broadcasting?

11 A Did it strike me as strange, no. But I believe
12 his philosophy was that it wasn't final yet and therefore
13 wasn't a final decision, and it wasn't included.

14 Q Did you ask anybody why no reference to Religious
15 Broadcasting was included in this application?

16 A Again, I didn't sign this application. I think I
17 participated in putting it together, but I don't recall ever
18 having a discussion.

19 Q So you never suggested to anybody that Religious
20 Broadcasting should be referenced in the application?

21 A No. Likewise, I didn't recommend that it wasn't.
22 I don't recall it.

23 Q Okay, let's look at Adams No. 51, the next one in
24 line in the gray book, please. This is the WHRC Norwell,
25 Massachusetts application. And it was filed on behalf of

1 the transferor by the law firm of Brown, Finn & Nietert.

2 A Yes.

3 Q And the transmittal letter, which should appear as
4 the first page in your volume there, refers to the FCC to
5 Mr. Mercer as counsel for the transferee; is that correct?

6 A That is correct.

7 Q You or your corporation were the transferee at
8 that point, correct?

9 A Transferee. We were receiving it, yes.

10 Q Now, this application was filed in July of 1991.
11 At that time you were -- you were being represented by
12 Sidley & Austin, Mr. Wadell and his colleagues at Sidley &
13 Austin, weren't you?

14 A In what proceedings?

15 Q Well, they were certainly representing you in
16 Reading, were they not?

17 A Yes, they were.

18 Q And they were representing you with respect to
19 certain Partel activities, were they not?

20 A I'd have to go back and look at that point. I
21 know they were involved in Reading at that point. I don't
22 know about any other specific representation.

23 Q Why didn't you rely on Sidley & Austin as your
24 counsel in connection with the Norwell application?

25 A Money. They are very expensive, and the -- Boston

1 turned out to be probably the best project I ever had, but
2 at that point it didn't look like anything other than an
3 accommodation for a friend of mine, who was paying the legal
4 bills for Brown, Finn & Nietert. And I didn't run up a lot
5 of cost in the case at that point.

6 Q Who prepared your portion, the transferee's
7 portion of the Norwell application?

8 A Actually, I believe that between Brown, Finn &
9 Nietert and Mr. Mercer, that was prepared.

10 Q Do you know who drafted the language in Exhibit I
11 which appears at Adams Exhibit No. 51, pages 16 through 18?

12 A No, I do not.

13 Q But from what you testified to previously, can I
14 assume it was either somebody at Brown, Finn & Nietert or
15 Mr. Mercer or a combination of the two?

16 A It could well have been plagiarized from something
17 Mr. Wadlow was doing for Reading at the time.

18 Q What was Mr. Wadlow doing for Reading at the time
19 that would have caused him to write an exhibit of this
20 nature?

21 A He was working with Mr. -- and I'm not saying he
22 wrote it. I don't know that. But he was working with Mr.
23 Mercer in preparation for us to come out of bankruptcy which
24 seemed to extend on forever and ever, but we were going
25 over, doing a disclosure statement, doing reorganization

1 plan, doing a whole reorganization of the company, which had
2 to be crafted to deal with FCC rules and regulations and the
3 bankruptcy rules and regulations because I had basically
4 come into Reading Broadcasting to work it out of bankruptcy.

5 Q The reorganization plan is something that's filed
6 with the Bankruptcy Court; is that right?

7 A Yes.

8 Q What is a disclosure statement?

9 A In order -- in Chapter 11 proceedings, in order to
10 come out of Chapter 11, you, one, present a plan, and when
11 you reach the point where you can get the plan approved by
12 the judge, you then have to issue a disclosure statement to
13 all of the creditors, which outlines all the issues
14 involved, and at that point they are asked to vote on the
15 plan. And it's -- I suppose you could compare it to a
16 securities document. It's a disclosure document that
17 outlines both your business plan, who is going to be paid
18 what vis-a-vis different classes of creditors. It's a very
19 extensive document.

20 Q Does it identify who is going to run the company
21 after bankruptcy?

22 A That one I'm sure did. I'm not -- I'd have to go
23 back and look at it. It's been years since I've looked at
24 it, but I'm sure that that outlined what the plans were. I
25 think we told them we had planned to build a new tower site

1 in Earl Township. All of that was kind of outlined and put
2 together.

3 Q Okay, now refer -- I'm sorry. As interesting as
4 that is, let me get back on track.

5 Refer back again to Adams Exhibit 51, pages 16
6 through 18.

7 A Yes.

8 Q The Exhibit Roman Numeral I.

9 Over on page 17, running over onto page 18, the
10 final paragraph is a description of the San Bernardino
11 proceedings, correct?

12 A That is correct.

13 Q Did Mr. Mercer know about the Religious
14 Broadcasting case, the San Bernardino case, to your
15 knowledge, as of July of 1991?

16 A Oh, I'm sure he did, yes.

17 Q How did he come to know about that?

18 A Oh, I would have told him about it, and I'm sure
19 Mr. Wadlow would have told him about it because I believe
20 that those issues were outlined in the disclosure statement.

21 Q In the disclosure? So the disclosure statement
22 would have included a discussion about your background with
23 the FCC?

24 A Yes.

25 Q And this Religious Broadcasting, it would have

1 been addressed in that --

2 A I believe that it was. I don't want to say
3 specifically it was. It certainly was discussed. Whether
4 it was included or not, I don't really recall, but I know it
5 would have been discussed.

6 Q Mr. Parker, let me show you a copy of the document
7 which is multiple page in length.

8 MR. COLE: And Your Honor, just so you will know,
9 I don't want to put this into the record unless Your Honor
10 would like it, but I want to show it to the witness, and
11 I'll provide copies for Mr. Hutton and Your Honor just so
12 you can see them so you will know what I'm talking about.

13 BY MR. COLE:

14 Q Mr. Parker, while Ms. Booth is handing out these
15 documents, could you confirm for me that this is the
16 debtor's disclosure statement which was prepared and filed
17 with the Bankruptcy Court in Pennsylvania on behalf of
18 Reading Broadcasting, Inc. on August 30, 1990?

19 A It appears to be that, yes.

20 JUDGE SIPPEL: For what purpose are you showing us
21 the document?

22 MR. COLE: I'm just trying to -- what I am trying
23 to find out is how Mr. Mercer knew, if Mr. Mercer was the
24 one who drafted this exhibit, how he had come to learn about
25 the San Bernardino case.

1 Mr. Parker said he thought maybe Mr. Mercer might
2 have found out about it through preparation of this
3 disclosure statement. I've got a copy of the disclosure
4 statement. It does not make reference to San Bernardino,
5 and I want to confirm that through the witness. But again,
6 I don't propose to make this an exhibit. I just want to
7 show it to him to refresh his recollection of what was in
8 the disclosure statement.

9 JUDGE SIPPEL: I wanted to know what the purpose
10 is.

11 BY MR. COLE:

12 Q And Mr. Parker, I've looked at page 14 of this.
13 It appears to be the section in which -- page 14 through 17,
14 which appears to include a description of your background,
15 and I have not found reference to the Religious Broadcasting
16 case.

17 Am I missing something in here? Is it included
18 somewhere else or is it just not included at all?

19 A No, I'll take your word for it, counsel, it's not
20 in there. I think I said that I wasn't sure it was. Mr.
21 Mercer wasn't just involved in preparation of these
22 documents. He also was involved in attempts to refinance
23 the station, to obtain financing and so on. And clearly in
24 many of those instances -- well, and the refinance with
25 Meridian Bank, clearly in those instances there were

1 discussions of these issues with regard to my background.

2 Q Discussions among whom?

3 A The parties involved vis-a-vis the bank or the
4 people involved there.

5 Q And Mr. Mercer would have found out about it?

6 A He would have known about it. I mean, I went over
7 it with the parties involved up front.

8 Q Does it strike you as strange, Mr. Parker, that
9 Mr. Mercer would include a reference to the Religious
10 Broadcasting case in a normal application with Sidley &
11 Austin, and the San Francisco application, had not included
12 such reference?

13 A I believe one was filed in March of '89 and the
14 other was filed in July of '91. So it doesn't -- the answer
15 is no.

16 Q Now, refer to Adams 51, page 9, Are you with me
17 on Adams Exhibit 51, page 9?

18 A Yes.

19 Q There is the same question four that we looked at
20 in the San Francisco application, question 4(a) on 314.
21 There is an answer here in the negative as well the same way
22 that it was in the San Francisco application; is that
23 correct?

24 A That's correct.

25 Q Did you instruct Mr. Mercer to complete the

1 application in that manner?

2 A No. Clearly, I reviewed it and I don't disagree
3 with it, with the conclusion that is outlined there, and I
4 signed this application. So whether I directed him to,
5 clearly I reviewed it, signed it, and I agree with it.

6 MR. COLE: Your Honor, it's 12:15. You had
7 indicated taking a break here, and I'm at a break point so
8 that would be fine.

9 JUDGE SIPPPEL: Okay. We are in recess then until
10 1:30.

11 MR. COLE: Thank you.

12 (Whereupon, at 12:15 p.m., the hearing in the
13 above-entitled matter was recessed, to resume at 1:30 p.m.
14 this same day, June 14, 2000.)

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A F T E R N O O N S E S S I O N

(1:35 p.m.)

JUDGE SIPPEL: We're on the record.

I have received a telephone message, message slip anyway from counsel for Ms. Friedman, and she will be in. Mr. Geolot said and told my legal tech that 9:30 tomorrow was okay. So I'm assuming we are on at 9:30.

And that -- well, depending on how we finish today, but I'm figuring Friday for being our time out day. I'm getting a work order in to try and get this noise fixed in here. It will probably be the least successful thing that I try in this case but let's see what happens.

(Laughter.)

JUDGE SIPPEL: All right, you can continue, Mr. Cole.

MR. COLE: Thank you, Judge.

Whereupon,

MICHEAL L. PARKER, SR.

having previously duly sworn, was recalled as a witness and was examined and testified further as follows:

CROSS-EXAMINATION (Resumes)

BY MR. COLE:

Q Mr. Parker.

A Yes.

Q On behalf of the Adams Communications Corp., I

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(202) 628-4888

1 apologize for whatever you had for lunch, and I'm sure Mr.
2 Shook would, if he felt responsible.

3 JUDGE SIPPEL: No, he wouldn't do that.

4 (Laughter.)

5 BY MR. COLE:

6 Q All right, Mr. Parker, back to our little
7 documents. In the small gray notebook, I'd like you to
8 turn, please, to Adams Exhibit 51, page 17. This is still
9 the Norwell application concerning WHRC-TV filed in July of
10 1991.

11 A Yes.

12 Q Are you with me on page 17?

13 A Yes, I am.

14 Q All right, now, I want you to please look at the
15 paragraph which begins midway down the page, and this is the
16 paragraph that I think we established before lunch which
17 describes the Religious Broadcasting proceeding.

18 And focus with me, if you would, on the
19 introductory clause of the first sentence, which reads,
20 "Although neither an applicant nor the holder of an interest
21 in the proceeding..."

22 Do you see that language?

23 A Yes.

24 Q Now, if I recall this morning, didn't we establish
25 that Judge Gonzales in San Bernardino had found as a matter

1 of fact that you were the real party in interest in SBB?

2 MR. HUTTON: I object to the form of the question.
3 This paragraph in the application refers to the review board
4 decision, not to the ALJ's decision.

5 JUDGE SIPPEL: Well, that's -- I mean, you might
6 have an objection to the next question, but I'm taking this
7 at Mr. Cole is simply directing his attention to an event.
8 Let's see where he goes from there.

9 And I have the same recollection that you have,
10 Mr. Cole. It's shouldn't be a matter of contention.

11 Do you want to answer the question, Mr. Parker?

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: All right.

14 BY MR. COLE:

15 Q And had not the review board affirmed that finding
16 in its July 1988 decision?

17 MR. HUTTON: I object to the form of the question.
18 The testimony to date makes the witness's position clear.
19 The word "affirmed" is in this context ambiguous, I think.

20 MR. COLE: Well, I'll withdraw my question, Your
21 Honor, and reframe it.

22 JUDGE SIPPEL: Thank you.

23 BY MR. COLE:

24 Q Mr. Parker, isn't it the case that in the July
25 1988 review board decision the review board also found that

1 you were the real party in interest in SBB?

2 A I don't believe that was the case. I believe they
3 found in terms of comparative, comparative. I thought we
4 went over that. I thought I answered that in terms of the
5 comparative issue, she wasn't entitled to integration. But
6 whether or not they affirmed that, I don't believe that's
7 accurate.

8 Q No, Mr. Parker, you're not understanding my
9 question. Let me try again. I'm possibly not being clear.

10 I'm not interested in the legal conclusions
11 flowing from the finding of fact that you were the real
12 party in interest. I want a confirmation from you that the
13 review board, in July of 1988, found as a matter of fact
14 that you were the real party in interest in SBB.

15 JUDGE SIPPEL: Let's see, what are you looking
16 for, Mr. Parker?

17 THE WITNESS: Well, I was going back to the case,
18 but I don't believe that is the case in terms of a finding.
19 I think they found that SBB was not entitled to integration
20 credit.

21 JUDGE SIPPEL: But how could they get to that, how
22 could they get to that without figuring out whether or not
23 you were the real party in interest?

24 I'm not trying to argue with you because I know
25 that -- you know, I'm sitting here. I know that you are a

1 person who is pretty familiar with broadcasting
2 applications.

3 THE WITNESS: Mm-hmm.

4 JUDGE SIPPEL: With proceedings with respect to
5 broadcasting applications, and you've been around for a
6 number of years doing this kind of work, so I'm not asking
7 you as a lawyer to figure this out.

8 THE WITNESS: Mm-hmm.

9 JUDGE SIPPEL: But I would think as a businessman
10 that you would be able to come to some conclusions here.

11 THE WITNESS: You are right.

12 JUDGE SIPPEL: You know, factual conclusions.

13 THE WITNESS: You are right, Your Honor. I just
14 believes that that what the review board did was different
15 than what the judge did.

16 I think the review board affirmed his decision
17 with regard to not giving integration credit to the
18 applicant. But I do not believe that they actually made a
19 finding that I was a real party in interest on that
20 application, on the application.

21 Now, maybe I am splitting hairs. I thought -- my
22 understanding of it was that when it's appealed to the
23 review board, then the review board's standard is different,
24 or their finding is what the decision is based on, not the
25 judge's decision as such. I know that's splitting hairs

1 but --

2 JUDGE SIPPEL: No, it's not. No, it's not. It's
3 important and I think maybe, to the extent I am able to
4 clear it up, we can do that. I'll try.

5 But the review board said, and let me finish, the
6 review board said except as we state otherwise, we're
7 adopting what the administrative law judge found in this
8 case.

9 THE WITNESS: And I think our disclosure, if you
10 read the next sentence that Mr. Cole was -- was reading
11 from, says that for the purposes of comparative analysis,
12 integration and diversification credit, Mr. Parker was
13 deemed as such, that to be a real party in interest, and I
14 agree with that. I just don't think that it carried on to
15 anything beyond that.

16 JUDGE SIPPEL: Well, I think I know what you --

17 THE WITNESS: I mean, what I am saying is a real
18 party in interest, they never allege that I had some secret
19 hidden ownership interest, or I was having any money, or I
20 committed anything other than that the applicant should have
21 had reported the level of my involvement for purposes of the
22 application in terms of claiming integration and
23 diversification credit.

24 JUDGE SIPPEL: Well, it's almost like they found
25 the gun in your pocket but they didn't see you shoot it. I

1 mean, you know, they came to a conclusion that the -- that
2 as far as the facts are concerned, that the judge was right,
3 and they were going to adopt what the judge said except as
4 they indicated otherwise.

5 Now, I'm not arguing with respect to the different
6 conclusions that were drawn by Judge Gonzales and the review
7 board. I'm not trying to get into that with you all. It's
8 the -- it's just beating the question head on that Mr. Cole
9 asked you. Now, let's try it again.

10 MR. COLE: I'm not sure I remember at this point,
11 Your Honor, what my last question was.

12 JUDGE SIPPEL: It was about real party -- did the
13 review board find --

14 BY MR. COLE:

15 Q Oh, did the -- yeah. Did the review board find as
16 a matter of fact that you were the real party in interest in
17 San Bernardino Broadcasting Limited Partnership?

18 A Yes, in terms of comparative analysis, integration
19 and diversification credit; yes.

20 Q Can you explain to me how you can start a sentence
21 with the language stating that you were neither an applicant
22 nor the holder of an interest in the application proceeding,
23 when the administrative law judge and the review board has
24 held as a matter of fact to the contrary?

25 MR. HUTTON: Objection. I think it

1 mischaracterizes the witness's testimony.

2 JUDGE SIPPEL: I'll sustain the objection.

3 And again, I think you are referring to a document
4 again, but since we've been off on this side thing here
5 maybe you had better direct us again to the document.

6 MR. COLE: Oh, I'm sorry. I refer you back to
7 Adams 51, page 17, and I'm referring specifically to the
8 language which begins the sentence beginning in the first
9 paragraph that appears on that page. It reads, "Although
10 neither an applicant nor the holder of an interest in the
11 application proceeding."

12 BY MR. COLE:

13 Q So am I correct what they are stating there is
14 that you were not the holder of an interest in the
15 application proceeding?

16 A That is correct.

17 Q Is it not true that is inconsistent with what the
18 review board and the administrative law judge held?

19 A I do not believe so in terms of the review board.

20 JUDGE SIPPEL: If you don't mind, I'd like to hear
21 him explain this one.

22 MR. COLE: No, absolutely not. Please, Your
23 Honor.

24 JUDGE SIPPEL: Could you explain that answer?

25 THE WITNESS: Yes, sir.

1 As I understand it, you know, it's kind of like,
2 as I understood it, there are different levels of being a
3 real party in interest. In other words, if I had had 20
4 percent ownership in this application and I was hiding that
5 and deceiving the Commission with regard to that interest,
6 or if I had hidden the interest in it, that would be one
7 thing.

8 As I understand, their ruling was I was so
9 pervasive in the attorneys, hiring the attorneys, in getting
10 the --

11 JUDGE SIPPEL: In controlling the application.

12 THE WITNESS: Yes. But I was a paid consultant.
13 I got paid for my services. I got fired when it became an
14 issue. When the \$850,000 came down, the money went out to
15 the various people who did have an interest in accordance
16 with their interest. I never got a dime from that
17 settlement, wasn't ever intended to get it.

18 And that's how I understand the review board when
19 they affirmed the judge in terms of the comparative
20 analysis, yes. I had too big an interest and the applicant
21 should have disclosed that in her application. But I don't
22 think there is any language that I was -- I was defrauding
23 the Commission or --

24 JUDGE SIPPEL: That's not what he asked you now.
25 He hasn't gotten to that.